

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 158394

45

ORIGIN L-03

INFO OCT-01 EUR-25 ADP-00 EB-11 TRSE-00 SS-15 NSC-10

CIAE-00 INR-10 NSAE-00 RSC-01 /076 R

DRAFTED BY L/EB: DFBURNS:LAS

8-10-73 EXT. 20446

APPROVED BY L/EB: JDMUIR

EB/OT/STA: MR. WINSTANLEY

EUR/CE: MR. WILGUS

TREASURY: MR. ALLISTON

CUSTOMS: MR. GUBIN

L/T: MR. BEVANS (INFO)

----- 057434

P 101725Z AUG 73

FM SECSTATE WASHDC

TO AMEMBASSY BONN PRIORITY

LIMITED OFFICIAL USE STATE 158394

E.O. 11652: GDS

TAGS: ETRD, GW

SUBJECT: US-FRG CUSTOMS COOPERATION AGREEMENT

REFS: (A) BONN 11035, (B) BONN 11340

1. EMBASSY IS REQUESTED TO TAKE UP REMAINING UNAGREED
TEXTUAL DIFFERENCES WITH APPROPRIATE FRG OFFICIALS ON
BASIS OF FOLLOWING.

2. ARTICLE 2(2)(B). WE ARE AGREEABLE TO RETAINING QTE
ERMITTLUNGS- UND UNQTE IN GERMAN TEXT, BUT FOR CONFORMITY
WOULD CHANGE ENGLISH TEXT TO READ QTE INVESTIGATIVE AND
CRIMINAL PROCEEDINGS UNQTE. WHILE TERM "CRIMINAL PROCEED-
INGS" IS BROADER IN ENGLISH THAN CORRESPONDING TERM
"STRAFVERFAHREN" IN GERMAN, ADDITION OF TERM
"ERMITTLUNGSVERFAHREN" WOULD MAKE GERMAN TEXT BROADER THAN
THE ENGLISH. ADDITION IN ENGLISH TEXT OF "INVESTIGATIVE
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 158394

PROCEEDINGS" WOULD MAKE THE TEXTS IDENTICAL, AND WOULD

NOT BROADEN SCOPE OF PROVISIONS SUBSTANTIALLY, SINCE ARTICLES 2(2)(A) AND (C) COVER CIVIL INVESTIGATIVE PROCEEDINGS.

3. ARTICLE 14(3). WE CONTINUE TO DESIRE STRONGER WORD IN THIS SECTION THAN "AUTHORIZED." GERMANS APPARENTLY READ PRESENT FORMULATION AS REQUIRING GOVERNMENT TO COMPEL TESTIMONY OF OFFICIALS IN COURTS OF OTHER PARTY. FORMULATION WE HAVE PROPOSED IS NOT INTENDED TO GO THAT FAR. UNDER OUR LANGUAGE, AS WE INTERPRET IT, GOVERNMENT WOULD DIRECT THE OFFICIAL TO GO TO THE OTHER COUNTRY AND APPEAR AT THE PROCEEDING IN QUESTION. HE WOULD NOT BE REQUIRED TO GIVE ANY TESTIMONY, OR TO VIOLATE ANY PRIVILEGE AVAILABLE TO HIM AS A MATTER OF LAW. NOR WOULD THE AGREEMENT REPRESENT A SUBSTITUTE FOR AN EXTRADITION TREATY; GOVERNMENT WOULD NOT BE OBLIGATED TO INSURE THAT THE OFFICIAL ACTUALLY CAME TO THE OTHER COUNTRY, THOUGH PRESUMABLY THE OFFICIAL WOULD BE SUBJECT TO DISCIPLINARY ACTION IF HE DISOBEYED THE DIRECTIVE.

4. ACCORDINGLY, OUR PREFERENCE IS TO PRESERVE "DIRECTED" ("ANGEWIESEN") IN THE AGREEMENT. GERMAN CONCERNS MIGHT BE MET BY DELETING QTE ERSCHIEINEN UNQTE AND INSERTING IN LIEU THEREOF QTE AUFZUTRETEN UNQTE. THIS IS TO MAKE IT CLEAR THAT THE DIRECTIVE TO THE OFFICIAL IS FOR HIM TO APPEAR, NOT TO TESTIFY.

5. IF GERMANS ARE STILL UNWILLING TO ACCEPT "ANGEWIESEN" WE CAN AGREE, AS A FALLBACK, TO CHANGE "DIRECTED" TO "AUTHORIZED", BUT WITH THE ADDITION OF THE FOLLOWING SENTENCE IN ARTICLE 14(3), AT THE END OF THE PRESENT TEXT: QTE THE REQUESTED PARTY SHALL TAKE ALL APPROPRIATE MEASURES TO ENSURE THE APPEARANCE OF SUCH OFFICIALS UNQTE. SUCH AN ADDITION WILL MAKE CLEAR THAT GOVERNMENTS HAVE AN OBLIGATION GOING BEYOND SIMPLY SAYING "IT'S ALL RIGHT WITH US IF YOU GO" WHEN A REQUEST IS MADE UNDER THIS ARTICLE.

6. IN EVENT GERMANS AGREE TO FORMULATION IN PARA. 5, EMBASSY IS REQUESTED TO FURNISH GERMAN LANGUAGE VERSION LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 158394

OF SENTENCE FOR COMPARISON BY OPR/LS.

7. CUSTOMS HAS RECEIVED HUTTER LETTER (REF B). WE WILL ADVISE SOONEST WHEN COMMISSIONER ACREE HAS APPROVED PRECISE DATE.

8. MEMORANDUM EXPLAINING "FINES, PENALTIES, FORFEITURES AND LIQUIDATED DAMAGES" DESCRIBED IN PROTOCOL SIGNED AT

TIME OF INITIALING AGREEMENT HAS BEEN PREPARED BY CUSTOMS
AND IS BEING POUCHED- CUSTOMS CONTINUES TO HAVE INTEREST
IN RECEIVING GERMAN EXPLANATION OF "BUSSGELDVERFAHREN."
ROGERS

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 10 AUG 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: hilburpw
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE158394
Document Source: CORE
Document Unique ID: 00
Drafter: DFBURNS:LAS
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730844/aaaabgms.tel
Line Count: 119
Locator: TEXT ON-LINE
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: (A) BONN 11035, (B) BONN 11340
Review Action: RELEASED, APPROVED
Review Authority: hilburpw
Review Comment: n/a
Review Content Flags:
Review Date: 06 AUG 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <06-Aug-2001 by izenbei0>; APPROVED <10-Sep-2001 by hilburpw>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: US-FRG CUSTOMS COOPERATION AGREEMENT
TAGS: ETRD, GE
To: BONN
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005